United Nations CEDAW/C/68/3

Convention on the Elimination of All Forms of Discrimination against Women

Distr.: General
3 October 2017

English only

Committee on the Elimination of Discrimination against Women
Sixty-eighth session
23 October-17 November 2016
Item 6 of the provisional agenda*
Implementation of articles 21 and 22 of the Convention

Reports by specialized agencies on the implementation of the Convention in areas falling within the scope of their activities

Report by the International Labour Organization**

Summary

In accordance with article 22 of the Convention on the Elimination of All Forms of Discrimination against Women, the specialized agencies of the United Nations have been invited to submit to the Committee on the Elimination of Discrimination against Women, at its sixty-eighth session, reports on the implementation of the Convention in areas falling within the scope of their activities.

* CEDAW/C/68/1.
** This document was submitted late owing to delayed inputs from other sources.

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Contents

		Page
I.	Introduction	3
II.	Indications concerning the situation of individual countries	4
	A. Burkina Faso	4
	B. Guatemala	8
	C. Israel	14
	D. Kenya	19
	E. Kuwait	22
	F. Norway	26
	G. Oman	29
	H. Paraguay	31
	I. Singapore	33

I. Introduction

1. The provisions of article 11 of the Convention on the Elimination of All Forms of Discrimination against Women are addressed in a number of conventions of the International Labour Organization (ILO). Of the 189 Conventions adopted to date, the information in the present report relates principally to the following:

- Equal Remuneration Convention, 1951 (No. 100), which has been ratified by 173 member States
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111), which has been ratified by 175 member States
- Workers with Family Responsibilities Convention, 1981 (No. 156), which has been ratified by 44 member States

2. Where applicable, reference is made to a number of other Conventions that are relevant to the employment of women:

Forced labour

- Forced Labour Convention, 1930 (No. 29) and its Protocol of 2014
- Abolition of Forced Labour Convention, 1957 (No. 105)

Child labour

- Minimum Age Convention, 1973 (No. 138)
- Worst Forms of Child Labour Convention, 1999 (No. 182)

Freedom of association

- Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)
- Right to Organize and Collective Bargaining Convention, 1949 (No. 98)

Employment policy

- Employment Policy Convention, 1964 (No. 122)
- Human Resources Development Convention, 1975 (No. 142)

Maternity protection

- Maternity Protection Convention, 1919 (No. 3)
- Maternity Protection Convention (revised), 1952 (No. 103)
- Maternity Protection Convention, 2000 (No. 183)

Night work

- Night Work (Women) Convention (revised), 1948 (No. 89) and its Protocol of 1990
- Night Work Convention, 1990 (No. 171)

Underground work

- Underground Work Convention, 1935 (No. 45)
- Safety and Health in Mines Convention, 1995 (No. 176)

Migrant workers

- Migration for Employment Convention (revised), 1949 (No. 97)
- Migrant Workers (supplementary provisions) Convention, 1975 (No. 143)

Wages

- Minimum Wage Fixing Convention, 1970 (No. 131)

Indigenous peoples

- Indigenous and Tribal Peoples Convention, 1989 (No. 169)

Part-time work

- Part-Time Work Convention, 1994 (No. 175)

Home work

- Home Work Convention, 1996 (No. 177)

Domestic workers

- Domestic Workers Convention, 2011 (No. 189)

3. The application of ratified Conventions is supervised by the ILO Committee of Experts on the Application of Conventions and Recommendations, a body of independent experts from around the world, which meets annually. The information submitted in section II of the present report consists of summaries of observations and direct requests made by the Committee. Observations are comments published in the annual report of the Committee, issued in English, French and Spanish, which are submitted to the Committee on the Application of Standards of the International Labour Conference. Direct requests, issued in English and French, and, in the case of Spanish-speaking countries, in Spanish, are not published in book form, but are made public. At a later date, they are published on the ILO database of supervisory activities, NORMLEX.

4. The information below sets out brief references to the much more detailed comments made by the ILO supervisory bodies. The relevant comments of the Committee of Experts referred to in section II can be found in the NORMLEX database at www.ilo.org/dyn/normlex/en.

5. It will be noted that, in its own comments, the Committee of Experts often includes references to the information submitted by Governments to the Committee on the Elimination of Discrimination against Women or to the other treaty bodies, as well as to reports issued by those bodies.

II. Indications concerning the situation of individual countries

A. Burkina Faso

6. Of the relevant ILO Conventions, Burkina Faso has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 3, 29, 87, 97, 98, 105, 122, 138, 143, 182 and 183.

Comments made by the supervisory bodies of the International Labour Organization

7. The pending comments of the ILO Committee of Experts relevant to the provisions of the Convention on the Elimination of All Forms of Discrimination against Women relate to the items below.

Convention No. 100

8. Observation, adopted in 2016. In its previous comments, the Committee emphasized that the 2008 Labour Code (in the same way as the 2004 Labour Code) did not clearly reflect the principle of the Convention. Although it explicitly established the principle of equal remuneration for men and women for work of equal value (sect. 182 (3)), it also provided for equal wages for workers irrespective of sex "under equal conditions of work, vocational qualifications and output" (sect. 182 (1)). The Committee drew attention to the fact that the coexistence of those two provisions might be a source of confusion or even conflict when applying the principle in practice. It noted the information provided by the Government in its report to the effect that, in the context of the forthcoming revision of the Labour Code, a study had been conducted, with ILO support, on bringing the provisions of the Labour Code into conformity with the ILO fundamental and governance Conventions. The recommendations of the study included the revision of section 182, in response to the Committee's comments. During the tripartite presentation and validation workshop for that study, held in March 2014, a road map had been adopted and subsequently translated into a plan of action, which was being implemented. In that regard, the Committee drew the attention of the Government to the fact that the concept of "work of equal value" related to the very nature of the work, that is, the tasks to be performed, and involved the evaluation of the content of the work based on objective and non-sexist criteria, such as skills and qualifications, physical and mental effort, responsibilities and working conditions. To limit work of equal value to work performed under equal conditions of work, vocational qualifications and output restricted the basis for the comparison of such work and therefore hindered the full application of the principle of the Convention (see General Survey 2012 (fundamental Conventions), paras. 672-677). The Committee therefore requested that the Government provide information on the progress achieved in the implementation of the plan of action of the aforementioned road map, in particular on any measures taken to revise section 182 of the 2008 Labour Code.

Convention No. 100

9. Direct request, adopted in 2016. The Committee drew attention to the fact that the effective application of the Convention required the adoption of proactive measures to address the underlying and persistent causes of the concentration of men and women in different types of activities and jobs whereby one gender was generally limited to a restricted range of occupations (horizontal segregation) with different levels of responsibility (vertical segregation) (see General Survey 2012 (fundamental Conventions), paras. 710-712). For that reason, although the Committee welcomed the measures taken in relation to vocational training to improve the general employability of girls and boys, and of women and men, it requested that the Government provide information on the specific measures adopted or envisaged, both under the National Employment Policy and the National Gender Policy, to combat occupational segregation on the labour market and wage discrimination between men and women for work of equal value and to enable both women and men to have access to better paid jobs, occupations and positions.

10. In the absence of information on the role of employers' and workers' organizations in the effective application of the principle of the Convention, the

Committee, once again, requested that the Government encourage the social partners to address that issue, in particular within the framework of the Joint Commission on Wage Bargaining in the Private Sector. The Committee asked the Government to provide information on the progress achieved in that regard.

11. In its observations on the application of the Convention in practice transmitted with the Government's report, the National Confederation of Workers of Burkina (CNTB) confirmed the existence in practice of cases of wage inequality in certain enterprises, but added that in the absence of formal complaints received by the union, it was difficult to attest that such violations existed in practice.

12. According to the Government, Employment Working Paper No. 50 on Labour Market and Employment Policies in Burkina Faso of 2010, published by the National Observatory of Employment and Training, the average wage gap between men and women in the public sector was around 20 per cent, and in the formal private sector over one third of women received wages below the level of the minimum wage, compared with 17.8 per cent of men. In the view of the authorities, those data reflected in particular the low level of income related to the fact that women were engaged in low-paid categories of jobs. That information confirmed the Committee's conviction that, in order to combat effectively the persistent problem of the remuneration gap between men and women, it was indispensable to analyse the types of jobs held by men and women and their remuneration in all categories of employment within the same sector and in different sectors. The Committee therefore encouraged the Government to continue its efforts for the compilation of statistical data disaggregated by gender and referred to its general observation of 2006 on the Convention, which provided guidance on the most useful types of statistical data. In light of the statistics supplied by the National Observatory of Employment and Training, the Committee invited the Government to provide information on the proactive measures adopted or envisaged to reduce the wage inequality between men and women for work of equal value. The Committee asked the Government to continue to provide the fullest possible statistical data disaggregated by sex.

Convention No. 111

13. Direct request, adopted in 2016. As to the issue of sexual harassment, the Committee noted that the study on bringing the Labour Code into conformity with the fundamental and governance Conventions, undertaken with ILO support, emphasized the need to amend section 37 of the Labour Code to take into account the Committee's comments, namely that sexual harassment owing to a hostile working environment should be covered by the labour legislation, and not only quid pro quo sexual harassment. The Committee noted that the Government envisaged revising the current Labour Code of 2008 and requested that it provide information on the progress made in that regard and to indicate whether the other conclusions of the aforementioned study relating to non-discrimination in employment and occupation had been validated by the Government and the social partners.

14. In its report, the Government recognized the existence of underrepresentation of women in all fields of occupational life, one of the principal causes of which was the fact that girls did not attend school. In reply to the Committee's request that information be provided on the specific measures adopted and implemented for the effective promotion of equality of opportunity and treatment for men and women, the Government indicated that efforts were being made for the school enrolment of all girls and boys, and to reduce the illiteracy rate of adults, in particular of women. Those efforts had resulted in an increase in the employability of women, as well as an increase in guarantees of equality of access to employment. Other measures taken to promote equality of access to employment between men and women

included (a) the subprogramme to increase income and promote decent employment for women and young persons (PARPED), which aimed to increase the participation of women in the national production process through better access to vocational training and credits for businesses; (b) component 4 of the special job creation programme for youth and women (PSCE/JF), entitled "The economic empowerment of women", aimed to increase the productive capacities of women's groups and associations; (c) the youth employment and skills development project (PEJDC) which, through labour-intensive works, aimed to offer immediate job opportunities to over 30,000 unskilled or low-skilled young persons and women, including over 15,000 persons, in rural areas and at least 50 per cent of women, to improve the skills of at least 8,000 young persons and women, with at least 30 per cent being women, and to provide support for self-employment through the acquisition of vocational skills in order to increase their employability and productivity; (d) social measures to support the integration of young persons trained in trades, which targeted women in particular, not only through the occupations selected (those usually exercised by women), but also through quotas in occupations consisting of at least 30 per cent of women; (e) support for economic initiatives by women and young persons through the emergency transition socio-economic programme (PSUT), adopted to provide support for the initiatives of young persons and women and to reinforce education and health infrastructure; and (f) the implementation of preferential conditions for women regarding access to credit, with a view to promoting entrepreneurship by young persons and women (the establishment of financing funds, such as the Informal Sector Support Fund (FASI), the Employment Promotion Support Fund (FAPE), the Youth Initiatives Support Fund (FAIJ) and the Women's Income-generating Activities Support Fund (FAARF)). Noting that all of those measures were essentially intended to facilitate the access of women to employment, which it welcomed, the Committee requested that the Government provide information on the additional measures adopted or envisaged to improve the access of women to positions of responsibility in the private sector and the public sector, the latter sector being where the Government was in a position to ensure the implementation of the national equality policy, which served as a model for other employers. The Committee also requested that the Government indicate any measures taken to combat effectively stereotypes and prejudices regarding the respective roles of men and women in society. Detailed information (including statistical data) was also requested on the impact of measures taken to promote equality of access to employment between men and women without discrimination on the grounds of sex.

15. Regarding special measures of protection, following the Committee's request to provide information on the types of work prohibited for women, pursuant to section 142 of the Labour Code, it noted the copy of Decree No. 2010-356/PRES/PM/MTSS of 25 June 2010, provided by the Government, determining the nature of the hazardous types of work prohibited for women and pregnant women. That Decree was subdivided into two major parts, consisting of a chapter enumerating the prohibitions applicable to all women (sects. 1-6) and a chapter setting forth those applicable to pregnant or nursing women (sects. 7-12). With regard to the first chapter, the Committee drew the attention of the Government to provisions that tended to protect not strictly maternity, but women as such, which were therefore contrary to article 5 of the Convention. For example, section 4 of the Decree prohibited night work by women under 18 years of age, but not for young men of that age. Sections 5 and 6 prohibited certain types of physically dangerous or arduous work for women (the treatment of animal skins with a mercurous nitrate solution; work involving equipment such as pneumatic drills powered by compressed air; work involving exposure to aromatic hydrocarbons, unless the processes were carried out with sealed equipment). Those types of measures were

not strictly related to maternity protection and were often based on stereotypical assumptions regarding the social role and capacities of women and, as such, were an obstacle to the recruitment and employment of women. In that regard, it was also necessary to recall the major development in relation to ILO standards on maternity, that is, the progressive transition from a purely protective approach in relation to the employment of women to a strategy intended to ensure real equality between men and women and the elimination of all discriminatory laws and practices. While taking into account the differences that resulted in each gender being exposed to specific health risks, it was important to ensure that provisions on the protection of persons working under hazardous or arduous conditions were intended to protect the health and safety of both men and women (General Survey 2012 (fundamental Conventions), paras. 838-840). The Committee therefore requested that the Government ensure that, in the context of the current reform of the Labour Code, any restrictions concerning the types of work that might be performed by women were strictly limited to the protection of maternity.

Convention No. 183

16. Direct request, adopted in 2015. The Committee welcomed the ratification of the Convention by Burkina Faso and took note of the Government's first report on the application of the Convention. The Committee's comparative analysis showed that the national legislation gave full effect to the Convention, subject to receiving additional information and statistics on the points raised subsequently. As to health protection, the Committee took note of the provisions of the Labour Code respecting health protection measures for pregnant or breastfeeding women, as well as additional leave accorded in the event of duly certified illness resulting from pregnancy or confinement (section 145 (3)). The Government was requested to indicate the legislative texts intended to protect the health of women workers in the national and territorial public service in the event of pregnancy or when they were breastfeeding, as well as those governing the extension of maternity leave for public employees in such cases. The Committee noted that, under the terms of section 3 of the Social Security Code of 2006, the specific measures necessary for the application of the legislation to temporary or occasional workers should be determined by order of the minister responsible for social security, after seeking the opinion of the Labour Advisory Commission. The Government was requested to indicate whether such legislative texts had been adopted and the scheme envisaged for those categories of workers.

B. Guatemala

17. Of the relevant ILO Conventions, Guatemala has ratified Conventions Nos. 100, 111 and 156. It has also ratified Conventions Nos. 29, 87, 89, 97, 98, 103, 105, 122, 131, 138, 169 and 182. In addition, it ratified Convention No. 175 on 28 February 2017 (entry into force for Guatemala: 28 February 2018).

Comments made by the supervisory bodies of the International Labour Organization

18. The pending comments of the ILO Committee of Experts on the Application of Conventions and Recommendations relevant to the provisions of the Convention on the Elimination of All Forms of Discrimination against Women relate to the items below.

Convention No. 100

19. Observation, adopted in 2016. The Committee noted the observations of the Trade Union of Workers of Guatemala (UNSITRAGUA), received on 22 October 2014, which referred to issues that were being examined, and the observations of the Guatemalan Trade Union, Indigenous and Peasant Movement (MSICG), received on 5 September 2016. The Committee asked the Government to provide its comments on the latter. In its previous comments the Committee had requested that the Government provide information on the wage gap. The Committee noted that, according to UNSITRAGUA, in some sectors, such as the coffee and palm industries, women received lower pay than men. The Committee took note of the statistical information provided by the Government in its report, showing average wages by economic activity disaggregated by sex, for the year 2015. The Committee observed that according to that information, in all sectors other than construction and real estate, the wage differential was favourable to men by percentages ranging from 6 per cent in professional, scientific and technical activities and administrative services, to 47 per cent in the information and communications sector. In the construction and real estate sectors, there were gaps of 33 per cent and 18 per cent, respectively, in favour of women. The Committee noted that the Government provided information on the participation of men and women in the public sector, where women's participation was higher. It also noted that according to statistics for 2014 compiled by the Economic Commission for Latin America and the Caribbean, the differential in the average wage of men and women rose significantly as the level of training increased. That differential was 21 per cent between men workers and women workers with zero to 5 years of education and 52.8 per cent between men workers and women workers with 13 or more years of education. The differential was more marked in urban than in rural areas. The Committee requested that the Government examine the underlying causes of wage gaps that favoured either men or women (such as vertical or horizontal segregation in occupation, level of education and vocational training of men and women, family responsibilities or wage structures) and provide detailed information on the specific measures that had been taken to reduce the gap and on progress made in that regard. The Committee also asked the Government to continue to provide statistical information on the participation of men and women in the different sectors of activity and levels of occupation and on the remuneration levels of men and women in the different sectors of activity, disaggregated by sex and by occupational category, to enable the Committee to follow developments in pay differentials.

20. For more than 25 years, the Committee has been referring to various provisions in the national legislation that laid down a principle that was narrower than the one that the Convention established on equal remuneration for men and women for work of equal value. In the national legislation, article 102 (c) of the Constitution provides for "equal pay for equal work performed under the same conditions and with equal efficiency and seniority"; section 89 of the Labour Code provides that "for equal work performed in the same enterprise in a post and conditions of efficiency and seniority which are likewise equal, there shall be equal pay ..."; and section 3 of the Civil Service Act (Decree No. 1748 of 1968) provides for "equal pay for equal work performed under equal conditions and with equal efficiency and seniority". The Committee noted that in its report the Government indicated that in order to reform Decree No. 1748, a draft initiative was currently before Congress which included the amendment of section 3 of the Civil Service Act. In the view of the Committee, it was worth recalling once again that the concept of work of "equal value" was broader, going beyond equal remuneration for "equal", "the same" or "similar" work to encompass work that was of an entirely different nature but nevertheless of equal value. That concept lay at the heart of the

right of equal remuneration for men and women for work of equal value and was fundamental to tackling occupational sex segregation in the labour market, as it permitted a broader scope of comparison since it was not limited to comparing men and women in the same establishment or enterprise; rather, it allowed for a much broader comparison to be made between jobs performed by men and women in different places or enterprises, or between different employers (see General Survey 2012 (fundamental Conventions), paras. 669, 673 and 697-699). The Committee trusted that the initiative to reform the Civil Service Act (Decree No. 1748) would yield results in the near future and that in the context of the reform, section 3 of the Act would be amended to give full legislative expression to the principle of the Convention. The Committee requested that the Government take steps without delay to amend section 89 of the Labour Code so as to include also the principle of equal remuneration for men and women for work of equal value. It also requested that the Government, in a future amendment of the Constitution, envisage amending article 102 (c) in order to align it fully with the Convention. The Committee further requested that the Government provide information on any developments in that regard and reminded it that, should it so wish, it might seek technical assistance from ILO on the matter.

Convention No. 111

21. Observation, adopted in 2016. The Committee took note of the observations of UNSITRAGUA, received on 22 October 2014. For several years, the Committee has been referring to the discriminatory practice of mandatory pregnancy testing for securing and retaining employment. The Committee noted that UNSITRAGUA referred in its comments to the persistence of that practice. It also noted that the Government referred in its report to the action of the labour inspectorate in cases involving complaints for dismissal on the basis of pregnancy and indicated that 59 cases had been detected in 2016. In addition, five complaints had been brought before the courts in 2015 and 2016, of which four were pending and one had been withdrawn. The Committee observed that the Labour Code prohibited dismissal on the basis of pregnancy or during the breastfeeding period but did not contain any provisions that forbade the employer to impose mandatory pregnancy testing for securing or retaining employment. The Committee recalled that distinctions in employment or occupation on the basis of pregnancy or maternity were discriminatory since, by definition, they only affected women. The Committee also recalled that the employer's imposition of mandatory pregnancy testing for securing and retaining employment constituted a particularly serious form of discrimination on the basis of sex and underlined the importance of Governments adopting specific measures, in collaboration with the social partners, to combat discrimination effectively. The Committee urged the Government to take, without delay, the steps necessary to explicitly prohibit in the legislation mandatory pregnancy testing for securing or retaining employment and to take specific measures to raise the awareness of the public authorities, employers and workers with regard to the discriminatory nature of such practices. The Committee requested that the Government provide information on any progress made in that regard and on the complaints submitted concerning the dismissal of pregnant women and mandatory pregnancy testing, the action taken in response to the complaints, the penalties imposed and the compensation awarded.

22. In its previous comments, the Committee had referred to the observations of the General Confederation of Workers of Guatemala (CGTG) indicating that, as a result of the general context of impunity, no penalties had been imposed in cases of discrimination on the basis of gender, race or sex. The Committee had asked the Government to provide information on the complaints brought before the Commission against Discrimination and Racism, the violations detected by

the labour inspectorate and the penalties imposed. The Committee noted that the Government had referred to the various training activities for judges held throughout the country in 2015 and 2016 in relation to dissemination of the Convention and had provided statistical information on the complaints concerning violations of the labour rights of women examined by labour inspectors, but had not provided any information on the action taken in response. Nor had the Government provided information on the activities of the Commission against Discrimination and Racism. The Committee underlined the importance of raising the awareness of workers, employers and the public authorities regarding the relevant legislation, of enhancing the capacity of the competent authorities, including judges, labour inspectors and other public officials, to identify and address cases of discrimination and to examine whether the applicable substantive and procedural provisions allowed, in practice, claims to be brought successfully. The Committee also emphasized that adequately resourced and responsive procedures and institutions, which were accessible to all groups, were critical in that context (General Survey 2012 (fundamental Conventions), paras. 868 and 871). The Committee requested that the Government provide information on the specific activities carried out by the Commission against Discrimination and Racism and, in particular, on the complaints about discrimination in employment and occupation that had been examined and the action taken in response. The Committee also requested that the Government provide information on the activities relating to the Convention undertaken by the labour inspectorate and the judicial authorities, in particular the action taken in response to the complaints about discrimination received from men and women workers, including information on examples of compensation awarded and penalties imposed. The Committee further requested that the Government continue supplying statistical information in that regard, disaggregated by sex and grounds of discrimination.

Convention No. 111

23. Direct request, adopted in 2016. In its previous comments, the Committee had asked the Government to provide information on the measures taken in the context of the Institutional Strategic Gender Plan and the National Policy for the Advancement and Comprehensive Development of Women and the impact thereof on the promotion of equal opportunities for men and women. The Committee welcomed the Government's efforts to send statistical information. It noted that, according to those statistics, the labour participation rate for men in 2014 was 82.6 per cent, whereas for women it was 39.9 per cent. Moreover, according to the statistics, 55.2 per cent of women and 36.7 per cent of men worked in low-skilled occupations, 29 per cent of women worked in the public administration and 33 per cent of men worked in agriculture. Over 21 per cent of working men and women were in the commercial sector. Some 43.4 per cent of women and 10.7 per cent of men worked on their own account. The Committee also observed that, according to the statistics for the public sector, 76 per cent of women were employed in education while men were divided between education (50 per cent) and public finance (38 per cent). The Government also reported on the establishment of gender units at the ministries and secretariats of the Executive Authority. Moreover, it stated that the Ministry of Labour had provided training on human rights for some 50 public officials and that the Unit for Working Women at the Ministry of Labour had performed various training activities in schools concerning the labour rights and obligations of women and other awareness-raising and dissemination activities in various public bodies. Furthermore, a memorandum of understanding had been signed between the Ministry of Labour and the Presidential Secretariat for Women concerning inter-institutional coordination in the implementation of the National Policy for the Advancement and Comprehensive Development of Women and the

Equal Opportunities Plan 2008-2023. In reply to the question concerning the participation of women in the National Development Councils (CODES), the Government stated that the Councils constituted the principal means of participation in public management for the indigenous and non-indigenous population and indicated the types of representatives who participated in them but did not state whether requirements existed regarding fair, gender-based representation. While duly noting the measures taken, the Committee reminded the Government that the national equality policy was required to be effective and that, according to article 3 (f) of the Convention, information must be provided on the specific results achieved through the adopted measures (see General Survey 2012 (fundamental Conventions), para. 844). The Committee requested that the Government provide information on the specific measures adopted in the public and private sectors to increase the participation of women in the labour market and ensure gender equality in access to employment and training, including in sectors where women were not traditionally represented, and to eliminate stereotypes regarding the roles of women and men in the world of work and in decision-making circles. The Committee also requested that the Government provide information on the results achieved through such measures, including those adopted as part of the implementation of the National Policy for the Advancement and Comprehensive Development of Women and the Equal Opportunities Plan 2008-2023. The Committee further requested that the Government provide information on the activities undertaken by the gender units established at the ministries of the Executive Authority.

24. The Committee noted the information provided by the Government according to which the Parliamentary Labour Commission had issued a favourable opinion concerning the ratification of the Domestic Workers Convention, 2011 (No. 189). The Committee requested that the Government provide information on the legal provisions that applied to domestic workers, in particular specific protection measures that existed for such workers, who were especially vulnerable to discrimination. The Committee requested that the Government provide information, including statistics, if possible, on the participation of men and women in domestic work, in both the formal and informal economies, and on what occupational training measures were available to those workers to give them access to a wider range of jobs and better pay.

Convention No. 156

25. Direct request, adopted in 2016. In its previous comments, the Committee had asked the Government to provide information on the application of section 155 of the Labour Code of 1971, which required employers to create childcare centres when there were more than 30 women working in the enterprise or workplace, and on the activities carried out by the Office for Regulating Child Day-care Centres, now called the Department for Regulating Child Day-care Centres. The Committee noted the Government's indication that it had created a diploma for women specialized in providing care to young infants for women with family responsibilities with low educational levels, so as to help such women reintegrate into the labour market while increasing the provision of care for young children in childcare facilities. There were currently 388 child day-care centres. The Committee requested that the Government take the necessary measures to guarantee in practice that the obligation of employers to create child day-care centres benefited all workers, both men and women, without discrimination on the basis of sex, and consider the possibility of amending section 155 of the Labour Code to ensure that child day-care centres were available to both men and women workers. The Committee requested that the Government provide information on any other measures adopted as well as information on any childcare or family support services established.

26. The Committee took note of the statistical information provided by the Government in the framework of the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), on the complaints made to the labour inspectorate by women dismissed during their lactation period. The Committee recalled that family responsibilities should not, as such, constitute a valid reason for termination of employment. The Committee requested that the Government provide statistical data on the complaints made to the administrative or judicial authorities regarding dismissals on grounds of family responsibilities, the action taken, penalties imposed and compensation granted. The Committee also requested that the Government report any collective agreements, measures or proposals made by workers' and employers' organizations in relation to the application of the Convention.

Convention No. 103

27. Direct request, adopted in 2014. The Committee took note of the observations made by MSICG and CGTG, received in September 2014. The organizations indicated that: maternity protection was not effective; there was an inappropriate use of temporary contracts for permanent workers; women domestic workers did not enjoy adequate protection; many enterprises were not registered with the social security scheme and so workers could not receive the relevant benefits and were obliged to attend national health centres or hospitals under precarious conditions; pregnant women were not hired because of the costs they represented; and where enterprises paid social security contributions, the women were not allowed to go for prenatal checks. Furthermore, as to dismissals of pregnant women (and the lengthy court proceedings for their reinstatement), the Committee noted that, in 2012 and 2013, a total of 475 pregnant women and 272 nursing women had been dismissed from their jobs. The Government indicated in its report that the labour inspection services monitored the social security registration of working mothers as a form of ensuring compliance with the Convention. However, the Committee observed that the information concerning the controls made by the labour inspectorate did not mention maternity protection. The Committee requested that the Government ensure that the labour inspectorate respond to the concerns of the trade unions and provide information on the special controls carried out in that area.

28. Regarding benefits paid out of social assistance funds, the Committee noted the benefits provided through the "zero hunger" plan, prenatal and postnatal medical benefits, medical care provided for infants up to 2 years of age, and the "safe, family-centred maternity" plan. The Committee understood that women workers who did not meet the requirements to receive maternity benefits were entitled to the aforementioned benefits and requested that the Government confirm that understanding. The Committee also requested that the Government indicate whether, at the same time, women workers continued to receive maternity benefits paid by the employer.

Convention No. 131

29. Observation, adopted in 2016. The Committee took note of the observations of the International Trade Union Confederation alleging that the purpose of fixing minimum wages for the maquiladora industry was to reduce the production costs of enterprises in that sector. The Confederation also alleged that, according to the National Institute of Statistics, in 2015 the basket of essential goods cost around 6,242.00 Guatemalan quetzales (Q), while the minimum wage for a woman worker employed in a maquiladora was Q2,450.95. In the opinion of the Confederation, the National Wage Commission, which was the tripartite body responsible for the concerted fixing of the minimum wage, did not promote agreements, which was

why the determination of the minimum wage remained in the hands of the executive authorities in accordance with section 113 of the Labour Code. Furthermore, according to the Confederation, the situation was made worse by the high incidence of non-compliance with the labour legislation in relation to remuneration. The Confederation also alleged that the General Labour Inspectorate of Guatemala had neither the power to impose penalties nor any real possibility to carry out its inspection activities, in particular in the agricultural sector. The Committee requested that the Government provide its comments on that matter. The Committee also took note of the observations of MSICG, which reiterated the claims made in 2011.

C. Israel

30. Of the relevant ILO Conventions, Israel has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 29, 87, 97, 98, 105, 122, 138, 142 and 182.

Comments made by the supervisory bodies of the International Labour Organization

31. The pending comments of the ILO Committee of Experts on the Application of Conventions and Recommendations relevant to the provisions of the Convention on the Elimination of All Forms of Discrimination against Women relate to the items below.

Convention No. 100

32. Observation, adopted in 2013. In its previous observation the Committee had referred to the possible discriminatory impact of the decision of the High Court of Justice in *Yolanda Gloten v. the National Labour Court* (HCJ 1678/07) of 29 November 2009 excluding the application of the Hours of Work and Rest Law 1951, including provisions on overtime pay, to foreign women workers providing care on a live-in basis. The Committee noted the Government's indication that there was no discrimination against female caregivers on the basis of sex although they were in a female-dominated sector. The Government also indicated that the High Court of Justice had recently rejected the petition of Ms Gloten, as it considered that live-in caregivers fell outside the current formulation of the Hours of Work and Rest Law because of the nature of the employment, which could not be restricted to specific hours and depended on the client's health status. The Committee also noted that the governmental staff committee had submitted the following recommendations to the Minister of Economy: the Hours of Work and Rest Law and its regulations concerning overtime pay should be amended in order to clarify that live-in caregivers were not excluded from the scope of the law, emphasizing the difficulty of supervising their work hours; instead of overtime pay, such workers would be entitled to a comprehensive wage that would include payment for overtime of not less than 120 per cent of the monthly minimum wage; the weekly rest would be no less than 25 hours; the Wage Protection Law, 1958, would be amended in order to limit the rate of the wage that the employer could pay in food and drink to no more than 732 new shekels (NIS) per month; the regulation that entitled the employer to deduct half of the sum for housing should be abolished with regard to live-in caregivers and deductions for various expenses would not exceed NIS409 in the caregiving sector only. The Committee asked the Government to provide information on the measures adopted to give effect to the recommendations formulated by the governmental staff committee and any difficulties encountered in that regard. The Committee requested that the Government ensure that caregiving,

which was a female-dominated sector, was not undervalued based on gender stereotypes, and provide information on the specific measures adopted in that regard. Information was also requested on any complaints submitted by female foreign and national caregivers with the competent authorities, indicating the nature of the complaint and the outcome thereof.

Convention No. 100

33. Direct request, adopted in 2013. The Committee had previously noted that, calculated on the basis of gross monthly salary, the gender pay gap in 2009 was 34.29 per cent for the total population, 38 per cent for the Jewish population and 23.1 per cent for the Arab population. The Committee had also noted the important gender pay gap in the civil service (24 per cent). Moreover, it had noted the Government's indication that efforts were being made to address the problem of the gender pay gap and provide information concerning the increase of representation of women in the highest positions in the civil service. The Committee further noted that in its report concerning the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Government indicated that the Ministry of Economy had appointed a committee to examine the gender pay gap, which had submitted an interim report in November 2012. One of the initial recommendations in the report was to improve the balance between work and family responsibilities. The Committee once again asked the Government to provide detailed and updated statistical information disaggregated by sex on the distribution of men and women in the different sectors and occupations (including caregivers) and their corresponding earnings since 2009, including data for the different population groups, so as to make possible an evaluation of the progress achieved over time to reduce the gender pay gap. The Committee further requested that the Government provide information on the findings and conclusions of the latest report of the Authority for Advancing the Status of Women and corresponding follow-up.

34. The Committee noted that the Government referred to the project "Equal females for advancement of equal pay", conducted in cooperation with the Equal Employment Opportunities Commission, the New Israel Fund Initiative for Social Change (Shatil) committed to equality and social justice and other Israeli institutions. The project aimed at collecting information on wage gaps and data disaggregated by sex and sector, raising awareness and capacities of employers; and developing a simulator for the measurement of the wage gaps and encouraging policymakers to adopt the necessary legislative provisions. The Committee requested that the Government provide information on the impact of the project and on any other concrete measure adopted in order to promote equal remuneration for men and women for work of equal value.

35. The Committee has been referring to the need to extend the scope of comparison beyond the same employer or workplace as provided for under section 2 of the Male and Female Workers Equal Pay Law, 1996. The Committee noted that the Government had not provided additional information in that regard. Given the occupational sex segregation in certain sectors, the Committee asked the Government once again to indicate what measures were being taken or envisaged to extend the scope of comparison to ensure that the principle of the Convention could apply even in the absence of a male comparator in the same workplace or with the same employer.

36. The Committee had referred in its previous report to two cases filed with the Labour Court by the Equal Opportunity in Employment Commission, with a request for the appointment of a job evaluation expert under section 5 of the Male and Female Workers Equal Pay Law, 1996. Those cases had involved the Jerusalem Municipality and the Jerusalem Capital Studios Group. The Committee noted the

Government's indication that those cases were still pending. The Committee requested that the Government provide information on the final result of the judicial procedures and on all the concrete measures being adopted with the objective of establishing a mechanism for the objective evaluation of jobs.

Convention No. 111

37. Observation, adopted in 2013. In its previous observation the Committee had referred to the possible discriminatory impact of the decision of the High Court of Justice in *Yolanda Gloten v. the National Labour Court* (HCJ 1678/07) of 29 November 2009 excluding the application of the Hours of Work and Rest Law, 1951, including provisions on overtime pay, to foreign women workers providing care on a live-in basis. The Committee noted the Government's indication that there was no discrimination against female caregivers on the basis of sex although they were in a female-dominated sector. Moreover, the Government indicated that the High Court of Justice had recently rejected the petition of Ms Gloten, as it considered that live-in caregivers fell outside the current formulation of the Hours of Work and Rest Law because of the nature of the employment, which could not be restricted to specific hours. The Government further indicated that a staff committee had submitted the following recommendations to the Minister of Economy: the Hours of Work and Rest Law and its regulations concerning overtime pay should be amended in order to clarify that live-in caregivers were not excluded from the scope of the law, emphasizing the difficulty of supervising their working hours; instead of overtime pay, those workers would be entitled to a comprehensive wage that would include payment for overtime not less than 120 per cent of the monthly minimum wage; the weekly rest would be no less than 25 hours; the Wage Protection Law, 1958, would be amended in order to limit the rate of the wage that the employer could pay in food and drink to no more than ILS732 per month; the regulation that entitled the employer to deduct half of the sum for housing should be abolished with regard to live-in caregivers and deductions for various expenses would not exceed ILS409 in the caregiving sector only. The Committee requested that the Government ensure that female foreign workers were not being directly or indirectly discriminated against on the basis of sex, race, colour or national extraction, and provide information on any differential impact between national and foreign workers with regard to the measures of protection or requirements applying to the caregiving sector. The Committee also requested that the Government provide information on the measures adopted to give effect to the recommendations formulated by the governmental staff committee and any difficulty in that regard. Information was also requested on any complaints submitted by female foreign and national caregivers with the different authorities, indicating the nature of the complaint and the outcome thereof.

Convention No. 111

38. Direct request, adopted in 2013. Regarding the Equal Employment Opportunities Commission, the Committee noted, in particular, the development, since 2012, of a written policy for workforce diversity in cooperation with interested employers; five employers had already adhered to that initiative. The Commission was also carrying out two pilot projects: one project aimed at introducing indicators for equality in the workplace that would allow self-monitoring by employers; the second project, developed with Tel Aviv University, consisted in a programme of training for managers for the implementation of diversity in their organizations. The Committee noted that 781 complaints had been filed with the Commission in 2011 compared with 644 in 2010. Those complaints referred to sexual harassment, pregnancy and discrimination on the basis of religion, age and gender, among others. The Committee requested that the Government

continue to provide information on the specific activities carried out by the Commission and their impact in addressing discrimination in employment and occupation. The Committee again requested that the Government indicate any measures taken or envisaged to address discrimination based on pregnancy as well as any measures to promote reconciliation between work and family responsibilities.

39. As to the promotion of gender equality in employment and occupation, the Committee noted from the Government's report that the employment rate among Arab women from 25 to 64 years of age had continued to rise from 24.4 per cent in 2008 to 26.8 per cent in 2011 while the employment rate of all women had risen from 64.9 per cent to 66.3 per cent in 2011. The Committee noted the statistical information according to which the participation of women in senior positions had increased. The Committee also noted the measures adopted with a view to increase the participation of Arab women in the labour market, including through their enrolment in the national civil service. Measures had also been adopted to encourage them to enter into the nursery system and to promote their entrepreneurship. Day-care facilities in the Arab sector were being facilitated, including for part-time working women. The Committee requested that the Government provide updated information on the range of measures adopted to improve the participation of women in public positions and senior grades and the results achieved. Information was requested on the activities carried out by the Authority for Advancing the Status of Women with regard to the training, education and employment of women, including of women from particularly disadvantaged groups. Statistical information disaggregated by sex and population group was also requested.

40. With regard to sexual harassment, the Committee noted the statistical information provided by the Government according to which 245 investigations had been opened in 2011, resulting in 9 indictments and 62 warnings. In 2012, 155 investigations had been opened, with 3 indictments and 28 criminal warnings. The Committee requested that the Government provide information on the measures taken to prevent and eliminate sexual harassment in employment and occupation, including awareness-raising activities and other action carried out by the Authority for Advancing the Status of Women. The Government was requested to provide information on the complaints regarding sexual harassment addressed by the Equal Employment Opportunities Commission.

Convention No. 97

41. Observation, adopted in 2012. Regarding the equality of treatment in the case of foreign caregivers, the Committee recalled its previous observation raising concerns that the implementation of the Entry into Israel Law (Amendment No. 21) of 16 May 2011 — making it possible to restrict the transfer of foreign workers between employers by issuing work permits that were limited to certain geographical regions or to certain sub-branches of the caregiving sector — could result in reinstating the "restrictive employment relationship" of migrant workers with their employers, previously criticized by the High Court of Justice in 2006. The Committee also recalled the decision of the High Court of Justice in *Yolanda Gloten v. the National Labour Court* (HCJ 1678/07) of 2009 excluding live-in caregivers from the applicability of the Hours of Work and Rest Law 1951, and the concerns expressed by the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations that the *Gloten* judgment facilitated the application of a discriminatory and inferior legal regime to the work of women migrants. The Committee noted the Government's statement that there were 63,000 female Israeli care workers in the long-term nursing sector who were, unlike foreign caregivers, mostly employed in part-time jobs through

nursing care companies. The Government also detailed the various reasons for the dependency of the care sector on the work of live-in foreign caregivers and the difficulties related to the period of notice by caregivers who wanted to leave the employer with a disability or the elderly employer they cared for. The Government further indicated that 18,801 foreign workers in long-term nursing care had moved between authorized employers in 2011 and that there had been no refusals regarding requests to change employers.

42. The Committee noted the Government's statement that a governmental staff committee would submit recommendations regarding an appropriate legislative framework guaranteeing adequate pay and favourable working conditions for caregivers, after which a hearing would take place in the High Court of Justice. The Government also indicated that the Population and Immigration Authority of the Ministry of the Interior was working on a new set of regulations and procedures for the caregiving sector. While the text of those regulations and procedures was not yet at its disposal, the Committee noted from the Foreign Workers' Rights Handbook, to which the Government referred in its report and which was last updated on 1 October 2012, that foreign caregivers continued to be required to reside in the homes of their employers and that live-out arrangements or part-time employment were prohibited. Foreign caregivers were also required to respect a special and longer period of prior written notice (varying from seven days to one month), except in "circumstances in which it is unreasonable to require continued employment". The written notice was to be given to the recruitment agency as well as to the employer or the employer's representative. The Committee noted that a foreign caregiver who left the employer without prior written notice or before the minimum notification period might be liable to deportation after a hearing by the Population and Immigration Authority. Taking due note of the Government's detailed explanations regarding the heavy dependence of the care sector on the work of live-in foreign caregivers, the Committee considered it all the more important in the context of the proposed reforms that proper working conditions, including remuneration, hours of work and overtime arrangements, and effective and accessible complaints mechanisms and means of redress, were being ensured for foreign caregivers so as to ensure treatment no less favourable than that which applied to Israeli caregivers with regard to the matters referred to in article 6 (1) (a)-(d) of the Convention. Considering that the caregiving sector was the largest sector in which foreign workers were employed, the large majority of whom were women, the Committee urged the Government to make every effort to ensure that the proposed legislative framework guaranteeing adequate pay and favourable working conditions for caregivers and the regulations and procedures to be developed by the Population and Immigration Authority were in accordance with the provisions of article 6 of the Convention, and to expedite that process. The Committee requested that the Government provide detailed information on the outcome of that process, including copies of the text of any new regulations and procedures adopted or proposed, and on the outcome of the further hearing in the High Court of Justice. The Committee also requested that the Government provide copies of any regulations adopted by the Minister of the Interior pursuant to the amendments to the Entry into Israel Law, and information on the number of transfers to another employer of foreign workers in the caregiving sector requested on the basis that it would be unreasonable to continue employment, the outcome of those requests and the applicable procedures to address such requests.

43. Regarding enforcement and access to legal proceedings, further to the foregoing, the Committee recalled the exclusion of the largest group of foreign workers, foreign domestic caregivers who were primarily women, from the protection of the Commissioner for the Rights of Foreign Workers, except in cases of human trafficking, conditions of enslavement or forced labour, and cases of sexual abuse, violence or sexual harassment. The Committee also noted that the

monitoring of the employment relationship between those workers and their employers was apparently left mainly to licensed recruitment agencies. The Committee noted the Government's reply that the Commissioner could suggest that the worker apply for mediation and that there was no obstacle for an employee in the nursing care sector to institute legal proceedings against the employer other than through the Commissioner. The Committee recalled the concerns expressed by the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations that lower labour courts would be compelled to reject lawsuits from foreign caregivers for overtime pay owing to the *Gloten* judgment. Recalling that foreign caregivers should be able to enjoy and claim effectively their rights on an equal footing with nationals, as provided in article 6 (1) (d) of the Convention, the Committee requested that the Government provide full information on the manner in which foreign caregivers lawfully in the country could assert their rights with regard to the matters referred to in the Convention in practice and claim compensation. The Committee also requested that the Government include information on the manner in which Israeli caregivers could assert and claim their rights and on the number and nature of complaints filed by foreign and national caregivers with the judicial and administrative bodies and their outcome. The Committee also asked the Government to continue to provide statistics on the number and nature of violations of the relevant laws and regulations identified and addressed by the various responsible authorities. Recalling the Government's intention to study, with a view to applying, in cooperation with the social partners, the best practices for the treatment of foreign workers in line with the provisions of the Convention, the Committee reiterated its request that the Government indicate any progress made in that regard.

44. The Government's most recent reports on Conventions Nos. 97, 100 and 111 have been received and will be examined by the Committee of Experts at its session in November-December 2017.

D. Kenya

45. Of the relevant ILO Conventions, Kenya has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 29, 45, 89, 97, 98, 105, 138, 143 and 182.

Comments made by the ILO supervisory bodies

46. The pending comments of the ILO Committee of Experts on the Application of Conventions and Recommendations relevant to the provisions of the Convention on the Elimination of All Forms of Discrimination against Women relate to the items below.

Convention No. 100

47. Direct request, adopted in 2013. The Committee noted that the Government reiterated its statement that there was no discrimination in wages since the Minimum Wages Orders applied to all employees without any distinction based on age, gender, race or colour. The Government also indicated that it would develop a national wages and remuneration policy for the country. As part of that process, there would be a thorough review of the current Wages Orders through job evaluation and classification under the guidance of the General Wages Council and using the Kenya National Classification Occupations Systems and the International Standard Classification of Occupations. In that context, the Committee wished to recall that, owing to occupational segregation, special attention was needed in the design or adjustment of sectoral minimum wage schemes to ensure that the rates

fixed were free from gender bias and, in particular, that certain skills considered to be "female" were not undervalued. It was not sufficient that regulations determining the minimum wage did not make a distinction between men and women to ensure that there was no gender bias in the process. Rates should be fixed based on objective criteria, free from gender bias, to ensure that work in sectors with a high proportion of women was not being undervalued in comparison with sectors in which men were predominantly employed. The Committee also wished to recall that, in defining different occupations and jobs for the purpose of fixing minimum wages, gender-neutral terminology should be used to avoid stereotypes as to whether certain jobs should be carried out by a man or a woman (see General Survey 2012(fundamental Conventions), para. 683). The Committee asked the Government to provide information on the steps taken towards the development of the national wages and remuneration policy and, in particular, on the measures taken to ensure that the principle of equal remuneration between men and women for work of equal value was duly taken into consideration during the process and, when determining wage rates through job evaluation, skills considered to be "female" were not undervalued in comparison with traditionally "male" skills. The Committee also encouraged the Government to review the Kenya National Classification Occupations Systems in the light of the principle of the Convention, and asked for information on any progress made in that regard, as well as with regard to updating emergent job classification trends, such as information and communications technology.

Convention No. 111

48. Observation, adopted in 2013. The Committee noted with interest the creation of the National Gender and Equality Commission through the enactment of the National Gender and Equality Commission Act, 2011, pursuant to article 59 (4) of the Constitution. The Government indicated that the Commission, which had the overall mandate of promoting gender equality and freedom from discrimination in accordance with article 27 of the Constitution, had been fully constituted in May 2012 and had started some activities of awareness-raising of civic rights. It had also taken steps to promote affirmative action measures through participation in public interest litigation before the Supreme Court, seeking direction on the implementation of the two-thirds gender principle within the Parliament. The Commission, which was composed of five independent members, had a comprehensive mandate and extensive functions in the field of equality and non-discrimination, such as: facilitating the mainstreaming of issues of gender, persons with disabilities and other marginalized groups in national development; monitoring, facilitating and providing advice on affirmative action; investigating complaints and making recommendations for the improvement of the institutions concerned; conducting audits on the status of special interest groups (minorities, marginalized groups, persons with disabilities, women, youth and children); conducting and coordinating research activities; establishing databases; and preparing annual reports for the Parliament (National Gender and Equality Commission Act, 2011, sect. 8). The Commission also had general powers that included adjudicating on matters relating to equality and freedom from discrimination and entering any establishment, premises or land (by order of the court), as well as specific powers relating to investigations and addressing complaints, and might, upon inquiry into a complaint, refer the matter to the Prosecutor or recommend to the complainant a course of other judicial redress or settlement (ibid., sects. 26-41). The Committee requested that the Government continue to provide information on the Commission's advisory, promotional and investigative activities in the field of non-discrimination and equality in employment and occupation, indicating the number and nature of discrimination cases addressed and the results thereof.

Convention No. 111

49. Direct request, adopted in 2013. With regard to equality of opportunity and treatment of men and women, the Committee welcomed the Government's statement that it was in the process of putting in place an affirmative action policy, a national policy on gender and development, and an equality policy, with the involvement of the National Gender and Equality Commission. It also welcomed the Government's indication that in August 2013 the Commission had introduced a performance monitoring tool for the public sector that was designed to identify inequalities based on sex, as well as other inequalities, and would be used to monitor recruitments, promotions and access to training opportunities and provide information on representation by sex. According to the Government, the tool would become effective before the end of 2013, after which public sector agencies would be required to submit quarterly reports to the Commission that would be published for the Parliament. The Committee noted the Government's indication that the Commission, in cooperation with key actors of the private sector, was in the process of developing a similar monitoring tool for that sector. The Committee noted the Government's indication that the Women's Enterprise Fund, which promoted access to credit and self-employment, had won the Millennium Development Goals Award for outstanding achievement in promoting gender equality and women's empowerment in 2011. Welcoming the efforts and the progress made to promote gender equality in employment and occupation, the Committee requested that the Government provide information on the following: (a) the status and content of the affirmative action policy, the national policy on gender and development and the equality policy, as far as education, training, employment and occupation were concerned; (b) the distribution of men and women at the different job levels in the public sector; (c) the measures taken as a result of the gender monitoring conducted in the public sector with the tool developed to that end, and their impact on gender equality; (d) the progress made in developing a similar tool for the private sector, indicating the role of the social partners in that process; and (e) the measures taken to promote self-employment of women, including access to credit.

50. The Committee noted the Government's indication that it would endeavour to carry out awareness-raising campaigns in collaboration with the social partners to effectively address gender stereotypes. It asked the Government to provide information on any specific measures taken in that regard in the context of education, training, employment and occupation, in cooperation with the workers' and employers' organizations.

51. The Committee welcomed the decision of 8 November 2013 of the Industrial Court of Kenya in *Kioka v. Catholic University of Eastern Africa*, in which the Court had found that the University had unlawfully discriminated against its female employee by continuing to employ her on casual terms at a lower salary than her male counterparts, conducting an HIV test without her consent, maintaining her on progressively shorter contracts, denying her paid maternity leave and ultimately terminating her employment. The Court had determined that such conduct constituted discrimination based on sex, HIV status and pregnancy in contravention of article 1 of the Convention, the HIV and AIDS Recommendation, 2010 (No. 200), the Equal Remuneration Convention, 1951 (No. 100) and section 5 of the Employment Act, 2007. The Committee requested the Government continue to provide information on judicial decisions related to the application of the Convention. The Committee also requested information on cases of discrimination detected by or reported to labour inspectors, including sexual harassment cases.

Convention No. 89

52. Direct request, adopted in 2013. With regard to the prohibition of night work for women, the Committee recalled its previous comment in which it had noted that following the adoption of the Employment Act, 2007, the ban on women's night work had been lifted and that therefore the Government should consider the possibility of terminating its obligations under the Night Work (Women) Convention (Revised), 1948 (No. 89) by formally denouncing it. In its previous report, the Government indicated that it would call upon the social partners and relevant stakeholders to discuss the possibility of denouncing Convention No. 89 and ratifying the Night Work Convention, 1990 (No. 171). Considering that the Convention was no longer being given effect in either law or practice, the Committee trusted that the Government would take the necessary steps in that regard and recalled that Convention No. 89 would next be open to denunciation for a period of one year as from 27 February 2021. The Committee accordingly requested that the Government keep ILO informed of any further developments concerning the possible ratification of Convention No. 171 and the denunciation of Convention No. 89.

53. The Government's most recent reports on Conventions Nos. 100 and 111 have been received and will be examined by the Committee of Experts at its session in November-December 2017.

E. Kuwait

54. Of the relevant ILO Conventions, Kuwait has ratified Convention No. 111. It has also ratified Conventions Nos. 29, 87, 89, 98, 105, 138 and 182.

Comments made by the ILO supervisory bodies

55. The pending comments of the ILO Committee of Experts on the Application of Conventions and Recommendations relevant to the provisions of the Convention on the Elimination of All Forms of Discrimination against Women relate to the items below.

Convention No. 111

56. Observation, adopted in 2014. The Committee recalled the absence in the Law on Labour in the Private Sector (Law No. 6 of 2010) of any provisions prohibiting direct and indirect discrimination, including sexual harassment, in all aspects of employment and occupation. The Committee noted that the Government referred in its report to article 29 of the Constitution, providing for equal rights without distinction on the basis of sex, origin, language or religion, and to sections 191 and 192 of the Penal Code, criminalizing and imposing sanctions on any person who "dishonours another person under threat, by force or deceit". The Committee noted that article 29 did not cover all the grounds set out in article 1 (1) (a) of the Convention, nor did it cover all forms of discrimination in employment and occupation. The Committee recalled that constitutional provisions, while important, had generally not proven to be sufficient in order to address specific cases of discrimination in employment and occupation. In addition, the Committee recalled that addressing sexual harassment through criminal proceedings was normally not sufficient owing to the sensitivity of the issue, the higher burden of proof and the fact that penal provisions might not cover the full range of behaviour that constituted sexual harassment in employment and occupation (see General Survey 2012 (fundamental Conventions), paras. 792 and 851). The Committee noted the Government's explanations regarding protective measures for women under the

Labour Law and the indication that a committee to review the legislation had been set up by the Ministry of Justice. The Government also indicated that under Resolution No. 90/a of 2011 of the Ministry of Social Affairs and Labour, a joint working committee had been established to implement a project on the creation of a legislative environment to support the social empowerment of Kuwaiti women. The Committee once again urged the Government to take concrete steps to explicitly prohibit direct and indirect discrimination based on race, sex, colour, religion, political opinion, national extraction and social origin, with regard to all aspects of employment and occupation, and covering all workers. The Committee also requested that the Government adopt specific legal provisions defining and prohibiting both quid pro quo and hostile environment sexual harassment at work, including remedies and sanctions. In the meantime, the Committee requested that the Government take the measures necessary to ensure that all workers were protected in practice against discrimination, including sexual harassment, in employment and occupation and to provide full information in that regard. In the context of the current review of the labour legislation, the Government was requested to review chapter two, section four, of Law No. 6 of 2010 with a view to ensuring that any protective measures concerning women were strictly related to the protection of maternity.

57. With regard to migrant workers, including domestic workers, the Committee recalled that following the discussion by the United Nations Human Rights Council of the universal periodic review of Kuwait in September 2010, the Government had reiterated its acceptance "to revoke the current sponsorship system (*kafala*) and replace it with regulations in accordance with international standards" (A/HRC/15/15/Add.1, para. 82.19). The Committee recalled, however, that Law No. 6 of 2010 did not abolish the sponsorship system, but that article 9 of the Law provided for the establishment, under the Ministry of Social Affairs and Labour, of the Public Authority for Manpower in charge of recruiting and employing foreign labour following the request of employers. The Committee welcomed the adoption, on 12 May 2013, of Law No. 109 establishing the Public Authority for Manpower, which was responsible for managing the employment of migrant workers in the private and the oil sectors and issuing rules and procedures regarding work permits and transfers from one employer to another. With regard to domestic workers who were excluded from the scope of Law No. 6 of 2010, the Committee also noted that the Ministry of the Interior had set up a Domestic Workers Department that was responsible for enforcing the provisions of Law No. 40/1992 and Ministerial Decision No. 1182/2010 on the regulation of recruitment agencies for domestic workers, through periodical inspections of the agencies. The Government indicated that the Department received the complaints lodged by domestic workers against their sponsors with regard to the non-payment of wages and maltreatment, conducted investigations and took the necessary measures to ensure that workers received their entitlements and rehabilitation. The Ministry of the Interior also verified the accuracy of the "absenteeism notifications" submitted against workers and ensured that the workers concerned were not repatriated before obtaining their entitlements. The Committee noted the Government's indication that the establishment of the planned "Kuwait Home Helper Operating Company" was currently under examination. The Committee requested that the Government take the steps necessary, without further delay, to ensure that the rules, procedures and practical measures to be adopted either by the Public Authority for Manpower, the Domestic Workers Department or otherwise, ensured that the new system of employment of migrant workers, including domestic workers, did not place or maintain the workers concerned in a situation of increased vulnerability to discrimination and abuse as a result of disproportionate power exercised by the employer over the worker. The Committee requested that the Government continue

to provide information on all measures taken or envisaged to review the sponsorship system and ensure the full application of the Convention in respect of all migrant workers. The Committee also requested that the Government include specific information on the progress made on the draft bill on migrant domestic workers and the establishment, mandate and operational work of the Kuwait Home Helper Operating Company.

Convention No. 111

58. Direct request, adopted in 2014. As to access of women to employment, the Committee had previously expressed concerns about the practical and legislative obstacles to women's access to a number of posts and occupations under government control, including in the judiciary. In that regard, the Committee noted the Government's indication that the Supreme Council of the Judiciary had decided at the end of 2012 to accept the nomination of women to legal researcher positions for which only male candidates could apply previously, therefore paving the way for them to be able to be appointed to positions as representatives of the prosecution and in the future to positions as judges. As a result, a large number of women had applied for those positions and 20 women had been appointed in 2013. The Committee noted from the Government's report that in 2011 there had been 10,528 women in high administrative posts (311 women in 1997) and 51,929 in leading posts in the specialist category (38,409 men in similar posts). According to the Government, women had been authorized by the Ministry of the Interior to join the police in areas involving the public or dealing with women, and in cases related to family violence. Noting the action taken by the Government to promote the access of women to positions under its control, in particular in the judiciary and the police, the Committee requested that the Government continue its efforts and take proactive measures to ensure that women had equal opportunities of access to employment. It trusted that progress would be made in the near future with regard to their access to positions as judges. As to the access of women to employment in the police department, the Committee requested that the Government clarify whether the general and specific requirements to be met by applicants to the Saad Al-Abdullah Academy for Security Sciences, in particular age requirements, to which it referred in its report, applied only to women candidates or equally to both men and women candidates. The Government was also requested to clarify whether women and men police officers performed the same functions and tasks, as well as the reason for granting a specific allowance only to women inspectors of the fire service department.

59. With regard to the issue of sexual harassment and domestic workers, the Committee noted that the Government referred to sections 191 and 192 of the Penal Code, which provided that a person who "dishonours another person under threat, by force or deceit" should be sentenced to a maximum of 15 years in prison, and life imprisonment if the offender "works as a servant with the victim". The Committee noted that it was unclear how those provisions effectively protected domestic workers, many of whom were women, against all forms of sexual harassment, to which they were especially vulnerable owing to the particular nature of their employment relationship (see General Survey 2012 (fundamental Conventions), paras. 789-795). The Committee requested that the Government provide information, including any judicial decisions, on any complaint made by or against domestic workers pursuant to sections 191 and 192 of the Penal Code. The Government was requested to provide information on any practical measures, including awareness-raising and assistance, taken to address all forms of sexual harassment against domestic workers.

60. The Government's most recent report on Convention No. 111 has been received and will be examined by the Committee of Experts at its session in November-December 2017.

Convention No. 29

61. Observation, adopted in 2015. The Committee noted the observations of the Confederation of Indonesia Prosperity Trade Union (KSBSI) and the Indonesia Migrant Worker Union (SBMI), received on 10 July 2015. For a number of years, the Committee had been drawing the attention of the Government to the exclusion of migrant domestic workers from the protection of the Labour Code and had requested that the Government take the measures necessary to adopt a protective framework of employment relations that was specifically tailored to the difficult circumstances faced by that category of workers. In that regard, the Committee had previously noted the adoption of a certain number of decrees and ministerial decisions, including Decree Law No. 40/1992 and Ministerial Decision No. 617/1992 regulating the rules and procedures for obtaining licenses for the private recruitment agencies supplying domestic workers and similar workers, as well as Ministerial Decision No. 1182/2010, which defined the rights and obligations of each party in the recruitment contract (the agency, the employer and the employee).

62. The Committee noted that in their communications, KSBSI and SBMI referred to a specific case of a migrant domestic worker who had worked in Kuwait from 2003 to 2014 and who had been subject to forced labour practices, including physical abuse, harsh working conditions and passport confiscation. KSBSI and SBMI alleged that more than 660,000 foreign domestic workers from Asia and Africa worked in Kuwait. They generally migrated via recruitment agencies in their home countries that maintained relationships with agents in Kuwait. Most had agreed two-year contracts. KSBSI and SBMI also indicated that in 2009 embassies of labour-sending countries in Kuwait had received more than 10,000 complaints from domestic workers about non-payment of wages, excessively long working hours without rest and physical, sexual and psychological abuse. Many more cases of abuse probably remained unreported. Domestic workers had few avenues of redress. Kuwait's Labour Law excluded domestic workers, while immigration laws prohibited them from leaving or changing jobs without their employer's consent. Domestic workers who left their job without their employer's permission, even those fleeing abuse, might face immigration charges with criminal penalties, indefinite detention and deportation. Finally, KSBSI and SBMI emphasized that the major factor contributing to the vulnerability of domestic workers was Kuwait's sponsorship system (*kafala*). The Aliens Residence Law of 1959, with its implementing regulations, remained the primary law establishing that system. According to that Law, sponsors decided whether a worker might change employer and could file paperwork with the immigration authorities to cancel a worker's residence permit at any time.

63. The Committee noted the Government's indication in its report that Law No. 68/2015 on employment of domestic workers had recently been adopted. The Committee duly noted that the Law provided for the respective obligations of the employer and the worker, in particular with regard to the model contract issued by the Ministry of the Interior in Arabic and English, hours of work, remuneration and rest time, as well as holidays. The Committee noted in particular that article 12 of the Law expressly prohibited passport confiscation by the employer. It also noted that the contract between the employer and the domestic worker was concluded for a period of two years and could be renewed for a similar period, unless one of the two parties notified the other at least two months before the end of the two-year

contract. The Committee finally noted that domestic workers could file a complaint with the Domestic Labour Department and seek redress, for instance, for the non-payment of wages or for any other matter.

64. The Committee noted with concern the indications by the unions that migrant domestic workers were vulnerable to abusive practices and working conditions that might amount to the exaction of forced labour. While recognizing that Law No. 68/2015constituted a positive step towards improving the protection of migrant domestic workers, the Committee urged the Government to take the measures necessary to ensure that it was effectively applied. The Committee requested that the Government provide information on the application in practice of Law No. 68/2015, including a copy of the model contract issued by the Ministry of the Interior, as well as data on the number of domestic workers who had filed complaints with the Domestic Labour Department and the outcome of such complaints. With regard to the right of domestic workers to freely terminate their employment, the Committee requested that the Government indicate the manner in which migrant domestic workers were apprised of the right to terminate their two-year employment contract, with a two-month notice period, and to change employer or leave the country.

65. As to trafficking in persons, the Committee noted with interest the adoption of Law No. 91/2013 on trafficking in persons and smuggling of migrants, which aimed to punish trafficking and related offences and provided for stringent penalties for offences related to trafficking in persons (15 years in prison and a fine). The Committee requested that the Government provide information on the application in practice of the Law on trafficking, indicating the number of investigations and prosecutions carried out and the penalties applied. The Committee also requested that the Government provide information on the measures taken to protect victims of trafficking.

Convention No. 89

66. Direct request, adopted in 2013. The Committee noted the adoption of Act No. 6/2010 concerning the labour law in the private sector, article 22 of which continued to give effect to the Convention by prohibiting the employment of women from 10 p.m. to 7 a.m. While noting that the duration of the compulsory night rest for women had been shortened from 11 to 9 hours, the Committee wished to draw the attention of the Government, once again to the current trend favouring the review of gender-specific protective legislation with a view to gradually eliminating all provisions contrary to the principle of gender equality and non-discrimination, taking due account of national circumstances. That trend reflected also the growing expectation that the same standards of protection should apply to men and women alike in accordance with the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the widely ratified United Nations Convention on the Elimination of All Forms of Discrimination against Women. The Committee accordingly trusted that the Government would give favourable consideration to the ratification of the Night Work Convention, 1990 (No. 171), which was not devised as a gender-specific instrument; rather, it focused on the protection of all night workers in all branches and occupations. Noting the Government's statement that it was currently examining the possible ratification of Convention No. 171, the Committee requested that the Government keep ILO informed of any decision taken in that regard.

F. Norway

67. Of the relevant ILO Conventions, Norway has ratified Conventions Nos. 100, 111 and 156. It has ratified Conventions Nos. 29, 87, 97, 98, 105, 122, 138, 142,

143, 176, 182 and 183. It also ratified the Protocol of 2014 to the Forced Labour Convention, 1930, on 9 November 2015.

Comments made by the ILO supervisory bodies

68. The pending comments of the ILO Committee of Experts on the Application of Conventions and Recommendations relevant to the provisions of the Convention on the Elimination of All Forms of Discrimination against Women relate to the items below.

Convention No. 100

69. Observation, adopted in 2013. The Committee noted the observations made by the Norwegian Confederation of Trade Unions (LO), the Confederation of Unions for Professionals (UNIO) and the Confederation of Norwegian Business and Industry (NHO), which were submitted with the Government's report.

70. The Committee noted the extensive information in the Government's report on the measures taken to follow up on the recommendations made under the 2008 report of the Equal Pay Commission. It noted with interest the adoption of "Equality 2014", an action plan for gender equality (2011-2014), which set out a number of objectives, measures and indicators aimed at reducing gender-based pay differentials. The Committee noted, in particular, the measures envisaged to address the underlying causes of the gender pay gap, such as vertical and horizontal gender segregation in the labour market, the high prevalence of women in involuntary part-time work and the limited participation of women in top management positions in both the public and private sectors. Other measures were aimed at ensuring more information and transparency with regard to wages and wage differences. In that connection, the Committee took note of the amendments to section 1(a) of the Gender Equality Act with regard to the obligation of employers to promote equality in relation to all aspects of employment, including remuneration and wage transparency. The Government also indicated that, as a substantial part of the gender pay gap was linked to work-family responsibilities, a number of steps had been taken, including amendments to the Gender Equality Act and the Working Environment Act aimed at improving maternity benefits, paid parental leave, as well as the equal sharing of parental leave between mothers and fathers. The Committee also noted from the observations submitted by LO that, as a result of the confederation's involvement in the promotion of part-time workers' rights, changes to the Working Environment Act had been adopted so as to ensure greater legal protection for workers in that category. The Committee requested that the Government continue to provide information on the practical implementation of the measures set out in the action plan to promote the principle of equal remuneration, to address gender segregation in the labour market and to narrow the gender pay gap, as well as on the role of the social partners in that process, and the results achieved. Information was also requested on the practical application of section 1(a) of the Gender Equality Act, as well as on any proactive measures taken or envisaged to strengthen the enforcement of the duty to promote gender equality at the enterprise level, including through training and awareness-raising.

Convention No. 100

71. Direct request, adopted in 2013. The Committee noted the observations made by LO, UNIO and NHO, which were submitted with the Government's report.

72. The Committee had previously noted the recommendations of the Equal Pay Commission regarding the need to implement wage increases in female-dominated occupations in the public sector. The Committee noted from the comments

submitted by LO that, in the 2012 national negotiations on wages, it had been agreed by the social partners that women and/or female-dominated groups in the public sector would be entitled to 60 per cent of the sum negotiated at the central level. The Committee asked the Government to provide information on the impact of the agreement on the wage rates of male and female workers. The Committee also asked the Government to provide information on any cooperation with the social partners in promoting and applying the principle of the Convention, including any activities to raise awareness of the principle of equal remuneration for men and women for work of equal value among workers, employers and their representatives, and the results thereof.

73. The Committee noted the Government's indication that the Equality and Anti-Discrimination Ombudsman had dealt with 37 equal pay cases in the period from 2007 to 2012. According to the Government, in 10 of those cases the Ombudsman had concluded that the employer was in breach of the equal pay provisions. The Committee also noted the Government's indication that no equal pay cases had been brought before the Equality and Anti-Discrimination Tribunal from January 2012 to May 2013. The Committee asked the Government to continue to provide information on the number and outcome of equal pay cases addressed by the Equality and Anti-Discrimination Ombudsman and the Anti-Discrimination Tribunal, as well as on any measures taken to strengthen the enforcement of the equal pay provisions of the Gender Equality Act. Statistical information on equal pay cases, to which reference was made in the report, but which had not yet been received by ILO, was also requested.

74. The Committee noted the statistical information provided by the Government on the gender pay gap in some of the main bargaining areas. It noted from the figures provided that, although the gender pay gap had decreased slightly from 2008 to 2012, in most of the selected occupations in both the private and public sectors, substantial pay differentials continued to exist in sectors with a high proportion of women, such as financial services (49 per cent of full-time women; in 2012 women's average wages amounted to 74.1 per cent of men's earnings) and public health services (75 per cent of full-time women; in 2012 women's average wages amounted to 82.2 per cent of men's earnings). The Committee asked the Government to continue to provide statistical information on the evolution of the gender pay gap in the public and private sectors.

Convention No. 111

75. Direct request, adopted in 2013. Regarding legislative developments, the Committee took note of the observations made by UNIO and NHO, which were submitted with the Government's report. The Committee noted the adoption, on 13 June 2013, of a new Act prohibiting discrimination on the grounds of sexual orientation, gender identity and gender expression, which would come into force on 1 January 2014. The Committee also noted the Government's indication that amendments to the Gender Equality Act, the Anti-Discrimination Act and the Anti-Discrimination and Accessibility Act had been adopted on the same occasion and would take effect in January 2014. The Committee asked the Government to provide a copy of the new Act prohibiting discrimination on the grounds of sexual orientation, gender identity and gender expression, as well as of the aforementioned amended Acts. Information was also requested on the implementation of those legislative changes and on any further legislative developments with regard to the application of the Convention.

76. As to equality of opportunity and treatment of men and women, the Committee noted the extensive information provided by the Government and NHO with regard to measures taken or envisaged to address both vertical and horizontal segregation

in the labour market. It noted, in particular, the adoption of "Equality 2014", an action plan for gender equality (2011-2014), which set out a number of objectives, measures and indicators to be taken in collaboration with the social partners, aimed at ensuring gender equality in all aspects of employment and occupation. The Committee also noted the Government's indication that a new mapping study would assess the distribution of men and women by profession, occupation, industry and working hours in order to analyse gender-segregation in the labour market. The Government indicated that the Ministry of Education and Research would study new measures to address gender disparities in educational choices. The Committee took note of the statistical information provided by the Government regarding the number of male employees in kindergartens, as well as the rates of men and women in part-time employment. The Committee asked the Government to continue to provide information on the specific measures taken or envisaged to address the vertical and horizontal dimensions of labour market segregation. Updated statistical information was also requested on the distribution of men and women in the various sectors, positions and occupations in both the public and private sectors, as well as on the results obtained in the gender-segregation mapping study.

77. Regarding collective agreements and cooperation with employers' and workers' organizations, the Committee noted the Government's indication that, pursuant to the 2011-2014 Action Plan on Gender Equality, a forum had been established in order to strengthen cooperation with the social partners. The Government also indicated that one of the main focuses of the tripartite cooperation would be the exchange of good practices in combating discrimination in employment and occupation. The Committee requested that the Government continue to provide information on any action taken in cooperation with employers' and workers' organizations to develop and implement measures to combat discrimination and promote equality in employment and occupation. The Committee once again asked the Government for examples of non-discrimination clauses in collective agreements and for information on whether such causes covered grounds other than gender.

Convention No. 143

78. Direct request, adopted in 2013. Regarding women migrant workers, in its previous comments, the Committee had noted that the Government recognized that double discrimination was a genuine problem for women with immigrant backgrounds and therefore intended to launch labour market measures designed specifically to increase their participation in working life and society in general. In its report, the Government merely indicated that immigrant women who did not work and who did not receive social benefits were one of the main target groups of the "New Chance" programme. The Committee requested that the Government provide detailed information on the labour market measures taken to increase the participation of migrant women, in particular women with ethnic minority backgrounds, in the labour market, including any measures taken to promote equal access to education and vocational training.

79. The Government's most recent reports on Conventions Nos. 100, 111 and 143 have been received and will be examined by the Committee of Experts at its session in November-December 2017.

G. Oman

80. Of the relevant ILO Conventions, Oman has ratified Conventions Nos. 29, 105, 138 and 182.

Comments made by the ILO supervisory bodies

81. The pending comments of the ILO Committee of Experts on the Application of Conventions and Recommendations relevant to the provisions of the Convention on the Elimination of All Forms of Discrimination against Women relate to the item below.

Convention No. 29

82. Observation, adopted in 2016. In its earlier comments, the Committee had noted that migrant domestic workers were not covered by the Labour Law. It had noted that their work was regulated by Ministerial Order No. 1 of 2011, relating to the recruitment of non-Omani workers by private employment agencies, as well as the model contract for recruiting migrant domestic workers. The Committee had requested that the Government indicate the measures taken to facilitate the transfer of a migrant domestic worker's services to a new employer so that those workers could freely terminate their employment and did not fall into situations that could amount to forced labour. The Committee noted the Government's reference to Ministerial Decree No. 189/2004 on the special terms and conditions of domestic workers, which described the employment conditions and terms of reference of domestic workers. The Committee also noted that under article 8 of the Ministerial Decree, the contract of work could be terminated in the following cases: (a) the death of one of the parties; (b) unilaterally by the employer, provided that one month's notice was given; (c) unilaterally by the worker, provided that one month's notice was given or in the case where the worker had been abused by the employer or a member of the employer's family. Moreover, the Committee noted that under article 7, the migrant domestic worker could not work for another employer before completing the procedure of changing to another employer in accordance with the national regulations. The Committee observed that article 6 (e) of the model contract also provided for the same restrictions. In addition, the Committee noted that the Committee on the Elimination of Racial Discrimination had expressed its concern that domestic workers, mostly women who were foreign nationals, were excluded from the ambit of national labour laws. The Committee of Experts noted that the Committee on the Elimination of Racial Discrimination was concerned that, as a result, domestic workers were deprived of fundamental rights and subject to a higher risk of abuse, including sexual exploitation, by their employers (CERD/C/OMN/CO/2-5, para. 21). The Committee recalled the importance of taking effective action to ensure that the system of the employment of migrant domestic workers did not place the workers concerned in a situation of increased vulnerability, in particular where they were subjected to abusive employer practices, such as retention of passports, non-payment of wages, deprivation of liberty and physical and sexual abuse. Such practices might cause their employment to be transformed into situations that could amount to forced labour. The Committee therefore urged the Government to take the measures necessary, in law and in practice, to ensure that migrant domestic workers were fully protected from abusive practices and conditions that amounted to the exaction of forced labour. The Committee requested that the Government indicate the manner in which migrant domestic workers could exercise, in practice, their right to freely terminate their employment, so that they did not fall into abusive practices that might arise from the visa "sponsorship" system. The Committee also requested that the Government provide information on the modalities and the length of the procedure for changing an employer for migrant domestic workers.

83. The Committee requested that the Government strengthen its efforts to prevent, suppress and combat trafficking in persons, and to provide information on the measures taken in that regard. The Committee also requested that the

Government indicate the measures taken to ensure that all persons who engaged in trafficking were subject to prosecution and that, in practice, sufficiently effective and dissuasive penalties were imposed. Lastly, the Committee requested that the Government provide information on the application of the Human Trafficking Act in practice, including the number of investigations and prosecutions, as well as the penalties applied to those convicted.

H. Paraguay

84. Of the relevant ILO Conventions, Paraguay has ratified Conventions Nos. 100, 111 and 156. It has also ratified Conventions Nos. 29, 87, 89, 98, 105, 122, 138, 169, 182 and 189.

Comments made by the ILO supervisory bodies

85. The pending comments of the ILO Committee of Experts on the Application of Conventions and Recommendations relevant to the provisions of the Convention on the Elimination of All Forms of Discrimination against Women relate to the items below.

Convention No. 100

86. Direct request, adopted in 2015. The Committee noted that, according to the Government's report, 3,293 men and 1,490 women had been recruited in the private sector from January to April 2013. The Government added that the economic activity rate of women in 2013 was 54.6 per cent in urban areas and 47.2 per cent in rural areas, while the participation rate of men in those areas was 70.6 per cent and 78.3 per cent, respectively. The Government also indicated that 20 per cent of women workers were domestic employees. According to the 2013 Permanent Household Survey, the average monthly income of women was equivalent to 74.84 per cent of that of men, while the figure for women in 2012 was 72.8 per cent. Although there was a decrease in the existing wage gap, the Committee observed that the Government had not provided specific information on the measures adopted with a view to pursuing a further reduction. The Committee recalled that pay differentials remained one of the most persistent forms of inequality between women and men. Those differentials were due, among other reasons, to the persistent occupational segregation of men and women into specific sectors and occupations. The persistence of that disparity required that Governments, together with employers' and workers' organizations, took proactive measures to raise awareness, evaluate and promote and enforce the application of the principle of equal remuneration for men and women for work of equal value and to improve the access of women to a broader range of employment opportunities at all levels and in all sectors (see General Survey 2012 (fundamental Conventions), paras. 668, 669 and 713). The Committee requested that the Government provide specific information on the measures adopted with a view to reducing the existing wage gap and on the measures intended to increase the participation of women in all economic sectors, in particular in those in which they were under-represented. The information should also cover the measures adopted in that regard within the context of the National Plan for Equality of Opportunity between Women and Men 2008-2017. The Committee also requested that the Government provide specific information on the particular situation of rural women workers and those in the informal economy.

87. The Committee recalled that the concept of "equal value" required a method for the measurement and comparison of the relative value of different jobs. The Committee requested that the Government indicate the manner in which it was

intended to undertake the objective appraisal of jobs with a view to giving full effect to the principle of the Convention and reminded the Government that the technical assistance of ILO was available in that regard.

Convention No. 111

88. Direct request, adopted in 2015. As to the promotion of equality between women and men, the Committee took note of Act No. 5115/13 of 2013, which divided the Ministry of Justice and Labour into two Ministries, one for Justice and the other for Labour and Social Security. The Committee noted that section 3 of the Act provided that one of the objectives of the new Ministry of Labour and Social Security was to plan, direct, coordinate, implement, supervise and evaluate national and sectoral policies relating to fundamental rights from a gender perspective. The Committee also noted the adoption of the Paraguay National Development Plan 2030, which provided for the promotion of social inclusion through the elimination of discrimination and the promotion of gender equality. The Government indicated in its report on the application of the Equal Remuneration Convention, 1951 (No. 100), that the Ministry for Women was responsible for gender policies, in particular the Third National Plan for Equality of Opportunity for Women and Men 2008-2017. However, the Committee noted that the Government had not provided specific information on the implementation of the Plan, or on the Decent Work Country Programme in relation to the application of the Convention. Recalling the importance of following up the implementation of plans and policies in terms of their results and effectiveness, the Committee requested that the Government provide specific information on the measures adopted in the context of the foregoing plans and on the evaluation carried out by the Ministry of Labour and Social Security and the Ministry for Women on their impact on the promotion of equality of opportunity for men and women in employment and occupation, and the difficulties encountered.

89. Regarding sexual harassment, the Committee had been referring for several years to the need to adopt provisions on sexual harassment at work, as sexual harassment was only referred to in section 133 of the Penal Code, and the Labour Code only provided in section 84 for the possibility for workers to end the employment relationship in the case of violence by the employer. In that regard, the Committee noted the information provided by the Government on the preparation of the guide on sexual harassment and harassment at work in the public service, which referred to both quid pro quo and hostile working environment sexual harassment. The Committee noted that, in the context of the application of Convention No. 100, the Government had provided statistical data on the number of complaints of harassment at work made by men and women (4 and 10, respectively, during the period 2013-2014), but did not indicate the proportion of the complaints that related specifically to sexual harassment. The Government had not provided information on the specific measures adopted in the private sector to prevent and address sexual harassment. The Committee recalled that the existing legal provisions were not sufficient to address sexual harassment in the workplace. Indeed, the Committee recalled that addressing sexual harassment only through criminal proceedings was not sufficient owing to the burden of proof and the fact that the full range of behaviour that constituted sexual harassment in employment and occupation was not taken into account. Similarly, legislation under which the sole redress available to victims was the possibility of the termination of the employment relationship, as a form of reparation, did not afford sufficient protection to victims, as it basically punished victims and could dissuade them from seeking redress (see General Survey 2012 (fundamental Conventions), para. 792). The Committee requested that the Government consider the possibility of adopting legislation specifically addressing sexual harassment at work (both quid pro quo and hostile working environment

harassment), in the public and private sectors, containing a definition of the scope of the liability of employers, supervisors and co-workers and, where possible, clients or other persons connected with the performance of work. The Committee also requested that the Government continue providing information on the awareness-raising measures adopted in the public and private sectors.

Convention No. 29

90. Direct request, adopted in 2016. The Committee took note of the Government's information concerning the activities carried out by the General Directorate against trafficking in women, established within the Ministry for Women, whose main functions were to design prevention strategies, refer complaints to the courts and provide assistance to victims. Victim protection operates through three structures: a referral centre providing women victims of trafficking with social, psychological and legal assistance; a shelter providing temporary refuge for women victims; and a social rehabilitation programme. The Directorate had also launched an information campaign entitled "False promises are made and trafficking in persons occurs". The Committee noted that in its report on trafficking in women and adolescents for the purposes of sexual exploitation, published in 2014, the Office of the Public Prosecutor emphasized that while cases of trafficking in persons for different purposes and in various forms were identified, cases of transnational trafficking for the purposes of sexual exploitation were the most prevalent, as Paraguay was a country of origin of the victims. The Committee encouraged the Government to strengthen its activities to raise awareness of the phenomenon of trafficking among potential victims by targeting the regions they came from and the places where the recruitment agents acted. It also requested that the Government provide information on measures taken to provide assistance to victims who had returned to the country to enable their reintegration and prevent them from becoming victims again, as well as on the activities carried out by the national investment fund for prevention and assistance to victims.

Convention No. 89

91. Direct request, adopted in 2013. The Committee noted the Government's indication that it had not been able to proceed to the denunciation of the Convention during the last denunciation period that ended on 27 February 2012, as no consultations with employers' and workers' organizations had been held on the matter and efforts were concentrated in the ratification of the Domestic Workers Convention, 2011 (No. 189). The Committee also noted that under section 130 of the Labour Code, night work in industrial undertakings was prohibited only for pregnant and breastfeeding women workers when there was a risk for the mother or the child, and that therefore the Convention had ceased to apply. The Committee, accordingly, trusted that the Government would envisage, in a timely manner, the denunciation of the Convention on the following suitable occasion and that it would consider favourably the ratification of the Night Work Convention, 1990 (No. 171), which shifted the emphasis to the safety and health protection of all night workers irrespective of gender.

I. Singapore

92. Of the relevant ILO Conventions, Singapore has ratified Convention No. 100. It has also ratified Conventions Nos. 29, 45, 98, 138 and 182.

Comments made by the ILO supervisory bodies

93. The pending comments of the ILO Committee of Experts on the Application of Conventions and Recommendations relevant to the provisions of the Convention on the Elimination of All Forms of Discrimination against Women relate to the item below.

Convention No. 100

94. Direct request, adopted in 2015. The Committee noted the statistical data of June 2013 provided by the Government, which indicated that the gender wage gap had narrowed since 2010 for occupations consisting mostly of women, such as clerical support workers (2.22 per cent, from 3.53 per cent), associate professionals and technicians (5.46 per cent, from 10.35 per cent) and cleaners (15 per cent, from 28.07 per cent), with the exception of service and sales workers (15.73 per cent, up from 8.11 per cent). It also noted the narrowing of the gender wage gap for occupations that did not predominately employ women, such as professionals (5.42 per cent, from 7.56 per cent) and managers (15.64 per cent, from 17.67 per cent), but noted further that the gap remained wide for plant and machine operators and assemblers (38.25 per cent, from 39.58 per cent), and craftsmen and related trade workers (36.69 per cent, from 35.57 per cent). In addition, it noted that in 2013 the median gross monthly income of full-time employed women was 86.5 per cent of that of men (compared with 91.9 per cent in 2009). In that regard, the Committee recalled its comment in 2007 in response to the lack of legislation requiring equal remuneration for men and women for work of equal value, which emphasized that measures taken by the Government must be effective in achieving the Convention's objective. The Committee also recalled that in order to be able to determine if measures taken were having a positive impact, data and research on the actual situation, including the underlying causes, were essential (see General Survey 2012 (fundamental Conventions) para. 870). The Committee invited the Government to provide information on measures taken to specifically address the underlying causes of the gender pay gap, such as gender-based discrimination, gender stereotypes relating to the aspirations, preferences and abilities of women, or vertical and horizontal occupational segregation. It also requested that the Government continue providing detailed statistics on the gender wage gap in the private and public sectors, as well as information on initiatives to provide assistance to women to enter, remain in or re-enter the workforce, including in higher paid occupations, as well as on measures to raise awareness of the principle of equal remuneration for men and women for work of equal value implemented among employers, workers and their organizations.

95. The Committee also noted the Government's indication that the National Trade Unions Congress was working towards having clauses on equal remuneration for work of equal value incorporated into more collective agreements and that no disputes had been referred to the Industrial Arbitration Court regarding the application of equal remuneration clauses in collective agreements. The Committee requested that the Government continue to provide statistical information on the inclusion of equal remuneration clauses in collective agreements. It also requested that the Government provide specific examples of how such clauses were applied in practice when wages were set at the enterprise level. The Committee invited the Government to provide information on measures taken by the National Trade Unions Congress to incorporate equal remuneration clauses into collective agreements, as well as other measures taken to raise awareness among workers, in particular women workers, of the existence of equal remuneration clauses in existing collective agreements. Finally, the Committee requested that the Government indicate in its following report whether any disputes regarding the

application of such equal remuneration clauses had arisen, and how they had been addressed.

96. The Committee noted the Government's previous indication that the wide gender gap was due to the fact that women were frequently employed in jobs that were typically paid less than male-dominated jobs, and that that gap was attributable to a tendency, in the past, for women to leave the workforce to take up family and household responsibilities. The Committee also noted the Government's indication that job evaluation exercises were being conducted at the enterprise level in both the private and public sectors, which was encouraged by programmes of the Tripartite Alliance for Fair and Progressive Employment Practices that urged employers to comply with the Tripartite Guidelines on Fair Employment Practices. The Committee invited the Government to provide more information in its following report regarding measures taken to develop and implement objective job evaluations between male- and female-dominated occupational sectors, as well as any results from such measures.

97. The Committee noted the Government's previous indication that workers could approach the Tripartite Alliance for incidences of alleged discrimination, which included remuneration claims. It also noted the Government's indication that the *Grievance Handling Handbook* of the Alliance had been disseminated to employers and that 519 employers had participated in the fair employment grievance handling workshop, which helped employers develop grievance handling mechanisms. The Committee noted, however, the Government's indication that the Alliance had to date not received any complaints related to equal remuneration for men and women for work of equal value. The Committee requested that the Government provide more information on measures taken to ensure that workers who believed their right to equal remuneration for work of equal value had been violated might effectively seek redress. Such measures might include studies that assessed the degree of worker confidence in the procedures promoted by the Alliance, how practically accessible such procedures were to workers and efforts to raise the awareness of workers and their representatives regarding existing grievance mechanisms under the Tripartite Guidelines on Fair Employment Practices. The Committee also requested that the Government provide specific information on the nature, number and outcome of complaints submitted by workers to the Alliance regarding equal remuneration.